REMARKS

Claims 1-27 remain pending in the application. Claims 1 and 12-17 have been amended in an attempt to place the application in condition for allowance. No new matter has been introduced by these amendments.

Rejections under 35 U.S.C. §112

The Office Action has currently rejected Claims 1-27 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. While applicant does not concede the Examiner's position, the amendments to Claims 1 and 12-17, as presented herein, obviate the current rejection of the claims under 35 U.S.C. §112. Therefore, applicant respectfully request that this rejection be withdrawn.

Rejections under 35 U.S.C. §102(b)

The Office Action has also rejected Claims 1-27 under 35 U.S.C. §102(b) as allegedly being anticipated by the disclosure of U.S. Patent No. 4,034,078 (hereinafter "Van Horn"). Applicant respectfully traverses the rejection as set forth below.

It is well established that in order for the prior art of record to be a novelty defeating reference under 35 U.S.C. §102(b), the reference must disclose each and every feature of the claimed invention. Here, this standard has not been met.

Claim 1 of the instant application recites, in part, a method of treating animal manure solids, comprising contacting the solids with an effective treatment amount of a treatment composition comprising $AlCl_3 \cdot nH_2O$ or $Al(NO_3)_3 \cdot mH_2O$. Therefore, at least one feature of Claim 1 and the claims depending there from is the presence of $AlCl_3 \cdot nH_2O$ or $Al(NO_3)_3 \cdot mH_2O$ in the treatment composition.

In contrast to the instant claims and contrary to the Examiner's assertion, the disclosure of Van Horn does not disclose a method of treating animal manure solids that comprises contacting the solids with a treatment composition comprising $AlCl_3 \cdot nH_2O$ or $Al(NO_3)_3 \cdot mH_2O$. As noted by the Examiner, Van Horn does in fact disclose the use of nitrates, however, these nitrates are only disclosed as the anionic component of a **ferrous salt** and not of an aluminum salt. See Col. 3, line 67 – Col. 4, line 11. To that end, no where in Van Horn is there a disclosure of $AlCl_3 \cdot nH_2O$ or $Al(NO_3)_3 \cdot mH_2O$, much less a treatment composition comprising same. As such, for at least this reason, Van Horn fails to disclose each and every feature of the claimed invention and the novelty rejection should be withdrawn.

Similarly, and although not specifically addressed in the Office Action, Applicant submits the following arguments in traverse of any potential rejection of the instant claims under 35 U.S.C. §103 as allegedly being obvious in view of the teachings of Van Horn.

It is well settled that in order to establish a *prima facie* case of obviousness, the art of record must teach, or at least suggest, the claimed invention as a whole. Moreover, there must be adequate motivation and a reasonable expectation of success to undertake the modifications proposed in the rejection. Once again, neither standard is satisfied by the teachings of Van Horn.

First, as discussed above, Van Horn fails to teach or even suggest a treatment composition comprising $AlCl_3 \cdot nH_2O$ or $Al(NO_3)_3 \cdot mH_2O$ as recited in the instant Claims. Moreover, Van Horn actually teaches away from the use of Aluminum all together where it states that the addition of metallic salts other than ferrous salts, such as aluminum salts, **not only failed to produce a synergistic effect but even resulted in a reduction in activity** as compared to the use of a ferrous salt. See Col. 5, line 15-28. Therefore, not only does Van Horn fail to disclose a treatment composition comprising $AlCl_3 \cdot nH_2O$ or $Al(NO_3)_3 \cdot mH_2O$, but he actually teaches away from the use of an aluminum containing treatment composition all together. As such, the disclosure of Van Horn would not have motivated one of ordinary skill in the art to arrive at the method of instant Claims 1-27. Accordingly, it is respectfully submitted that Van Horn does not obviate instant Claims 1-27.

CONCLUSION

In light of the Amendments and Remarks set forth above, the application is believed to be in condition for allowance. Accordingly, Applicant respectfully seeks notification of same.

Enclosed is a credit card payment authorization form in the amount of $110.00 for the requisite one extension of time fee. No additional fee is believed due; however, the Commissioner is hereby authorized to charge any additional fees, which may be required, or credit any overpayment to Deposit Account
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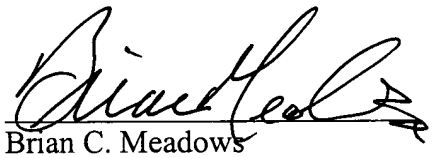
Respectfully submitted,

NEEDLE & ROSENBERG, P.C.



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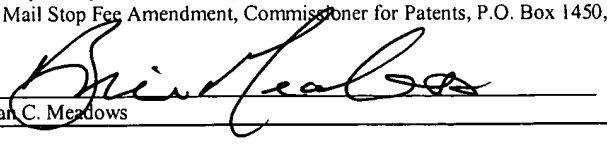

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9.24.2004
Date